



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466
<http://www.epa.gov/region08>

September 24, 2003

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Hunsaker, Board Chairman
Greater Smoot Water and Sewer District
P.O. Box 76
Smoot, Wyoming 83126

Re: Administrative Order
Docket No. **SDWA-08-2003-0066**
Greater Smoot W&S District
PWS ID #5601397

Dear Mr. Hunsaker:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq. and its implementing regulations. Among other things, the Administrative Order finds that Greater Smoot Water and Sewer District is a public water supplier as defined by the SDWA and that the District has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.23(d), 141.21(b)(5), 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for nitrate; failure to perform repeat monitoring for bacteriological quality; failure to provide public notice of the violations; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

If the District complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering the District to comply.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information can be sent to Jackson Naftel at the address on the letterhead, include the mailcode 8ENF-W, or you may call Mr. Naftel at (303) 312-6362. If you wish to have an informal

conference with EPA, you may also call or write Mr. Naftel. If you are represented by an attorney please feel free to have your attorney call Peggy Livingston at (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order

cc: Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH
Colleen Patman, Greater Smoot W&S District



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>**

September 24, 2003

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lincoln County Commissioners
c/o T. Deb Wolfley, Chair
925 Sage Avenue
Kemmerer, Wyoming 83101

Re: Notice of Safe Drinking Water
Act Enforcement Action against
Greater Smoot W&S District
PWS ID #WY5601397

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Greater Smoot Water and Sewer District, located in Smoot, WY. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations (NPDWRs). The System is in violation of 40 C.F.R. §§ 141.23(d), 141.21(b)(5), 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for nitrate; failure to perform repeat monitoring for bacteriological quality; failure to provide public notice of the violations; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.



Printed on Recycled Paper

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Jackson Naftel at (303) 312-6362.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)
Greater Smoot Water and Sewer)
District)
Smoot, Wyoming)
)
Respondent)
) ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g)) Docket No. **SDWA-08-2003-0066**
)

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act or SDWA), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Greater Smoot Water and Sewer District ("Respondent") is a municipality and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, Greater Smoot Water and Sewer District (the District) Water System (the "System"), located in Smoot, Wyoming for the provision to the public of piped water for human consumption.

3. The District Water System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to an August 28, 2000 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by ground water consisting of one well and two springs. The System serves approximately 260 persons daily, during its year-round operational season through 164 service connection.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor their water annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
2. Respondent failed to monitor for nitrate in 2002, in violation of 40 C.F.R. § 141.23(d).

II.

1. 40 C.F.R. § 141.21(b) (5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive sample(s) to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples in February 1999 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b) (5).

III.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the MCL, maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.

2. Respondent has not provided public notice of the noncompliance detailed in the preceding Section II, in violation of 40 C.F.R. § 141.201.

IV.

1. 40 C.F.R. § 141.21(g) (2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA instances of noncompliance detailed in Section II in violation of 40 C.F.R. § 141.21(g) (2) .

V.

1. 40 C.F.R. § 141.31(b) requires that public water systems shall report any failure to comply with the NPDWRs to EPA within 48 hours.
2. Respondent failed to report to EPA within 48 hours the instances of noncompliance described in Findings of Violation Section I, in violation of 40 C.F.R. § 141.31(b) .

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with the annual nitrate monitoring requirements

as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

2. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has one or more total coliform positive sample(s) in a month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
3. No later than thirty days from the effective date of this Order, Respondent must provide public notice of the violations specified under the Findings of Violations in this Order to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. Specifically, Respondent must provide public notice of the failure to monitor for contamination by total coliform bacteria in accordance with 40 C.F.R. § 141.204. Public Notice must be given by any one of the

following methods: (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; AND (2) any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice described above, such as publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others, posting in public places served by the system or on the Internet, or delivery to community organizations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

4. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any

failure to comply with any NPDWR (40 C.F.R. Part 141) to EPA within 48 hours.

5. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.
6. Reporting requirements specified in this Order shall be provided by certified mail to:

Jackson Naftel
U. S. EPA Region 8 (8ENF-W)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order, instituted under Section 1414(g)(3)(A) of the Act, 42 U.S.C. § 300g-3(g)(3)(A), may subject Respondent to an administrative civil penalty of up to \$25,000 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$27,500 per day of violation, assessed by a U.S. District Court, under

Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C) .

3. Violation of any requirement of the SDWA or its implementing regulations, instituted under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation, assessed by an appropriate U.S. District Court, under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b) .
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 24th day of September, 2003.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Dianne L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK.

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON SEPTEMBER 24, 2003